

HB2747



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB2747

Introduced 2/21/2013, by Rep. Deborah Conroy

SYNOPSIS AS INTRODUCED:

5 ILCS 140/3

from Ch. 116, par. 203

Amends the Freedom of Information Act. Provides that a public body that employs on a part-time, full-time, or contractual basis 5 or more employees shall respond to any request for inspection or copies that is made by electronic mail.

LRB098 10557 JDS 40802 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Freedom of Information Act is amended by
5 changing Sections 2 and 3 as follows:

6 (5 ILCS 140/3) (from Ch. 116, par. 203)

7 Sec. 3. (a) Each public body shall make available to any
8 person for inspection or copying all public records, except as
9 otherwise provided in Section 7 of this Act. Notwithstanding
10 any other law, a public body may not grant to any person or
11 entity, whether by contract, license, or otherwise, the
12 exclusive right to access and disseminate any public record as
13 defined in this Act.

14 (b) Subject to the fee provisions of Section 6 of this Act,
15 each public body shall promptly provide, to any person who
16 submits a request, a copy of any public record required to be
17 disclosed by subsection (a) of this Section and shall certify
18 such copy if so requested.

19 (c) Requests for inspection or copies shall be made in
20 writing and directed to the public body. Written requests may
21 be submitted to a public body via personal delivery, mail,
22 telefax, or other means available to the public body. A public
23 body that employs on a part-time, full-time, or contractual

1 basis 5 or more employees shall respond to any request for
2 inspection or copies that is made by electronic mail. A public
3 body may honor oral requests for inspection or copying. A
4 public body may not require that a request be submitted on a
5 standard form or require the requester to specify the purpose
6 for a request, except to determine whether the records are
7 requested for a commercial purpose or whether to grant a
8 request for a fee waiver. All requests for inspection and
9 copying received by a public body shall immediately be
10 forwarded to its Freedom of Information officer or designee.

11 (d) Each public body shall, promptly, either comply with or
12 deny a request for public records within 5 business days after
13 its receipt of the request, unless the time for response is
14 properly extended under subsection (e) of this Section. Denial
15 shall be in writing as provided in Section 9 of this Act.
16 Failure to comply with a written request, extend the time for
17 response, or deny a request within 5 business days after its
18 receipt shall be considered a denial of the request. A public
19 body that fails to respond to a request within the requisite
20 periods in this Section but thereafter provides the requester
21 with copies of the requested public records may not impose a
22 fee for such copies. A public body that fails to respond to a
23 request received may not treat the request as unduly burdensome
24 under subsection (g).

25 (e) The time for response under this Section may be
26 extended by the public body for not more than 5 business days

1 from the original due date for any of the following reasons:

2 (i) the requested records are stored in whole or in
3 part at other locations than the office having charge of
4 the requested records;

5 (ii) the request requires the collection of a
6 substantial number of specified records;

7 (iii) the request is couched in categorical terms and
8 requires an extensive search for the records responsive to
9 it;

10 (iv) the requested records have not been located in the
11 course of routine search and additional efforts are being
12 made to locate them;

13 (v) the requested records require examination and
14 evaluation by personnel having the necessary competence
15 and discretion to determine if they are exempt from
16 disclosure under Section 7 of this Act or should be
17 revealed only with appropriate deletions;

18 (vi) the request for records cannot be complied with by
19 the public body within the time limits prescribed by
20 paragraph (c) of this Section without unduly burdening or
21 interfering with the operations of the public body;

22 (vii) there is a need for consultation, which shall be
23 conducted with all practicable speed, with another public
24 body or among two or more components of a public body
25 having a substantial interest in the determination or in
26 the subject matter of the request.

1 The person making a request and the public body may agree
2 in writing to extend the time for compliance for a period to be
3 determined by the parties. If the requester and the public body
4 agree to extend the period for compliance, a failure by the
5 public body to comply with any previous deadlines shall not be
6 treated as a denial of the request for the records.

7 (f) When additional time is required for any of the above
8 reasons, the public body shall, within 5 business days after
9 receipt of the request, notify the person making the request of
10 the reasons for the extension and the date by which the
11 response will be forthcoming. Failure to respond within the
12 time permitted for extension shall be considered a denial of
13 the request. A public body that fails to respond to a request
14 within the time permitted for extension but thereafter provides
15 the requester with copies of the requested public records may
16 not impose a fee for those copies. A public body that requests
17 an extension and subsequently fails to respond to the request
18 may not treat the request as unduly burdensome under subsection
19 (g).

20 (g) Requests calling for all records falling within a
21 category shall be complied with unless compliance with the
22 request would be unduly burdensome for the complying public
23 body and there is no way to narrow the request and the burden
24 on the public body outweighs the public interest in the
25 information. Before invoking this exemption, the public body
26 shall extend to the person making the request an opportunity to

1 confer with it in an attempt to reduce the request to
2 manageable proportions. If any body responds to a categorical
3 request by stating that compliance would unduly burden its
4 operation and the conditions described above are met, it shall
5 do so in writing, specifying the reasons why it would be unduly
6 burdensome and the extent to which compliance will so burden
7 the operations of the public body. Such a response shall be
8 treated as a denial of the request for information.

9 Repeated requests from the same person for the same records
10 that are unchanged or identical to records previously provided
11 or properly denied under this Act shall be deemed unduly
12 burdensome under this provision.

13 (h) Each public body may promulgate rules and regulations
14 in conformity with the provisions of this Section pertaining to
15 the availability of records and procedures to be followed,
16 including:

17 (i) the times and places where such records will be
18 made available, and

19 (ii) the persons from whom such records may be
20 obtained.

21 (i) The time periods for compliance or denial of a request
22 to inspect or copy records set out in this Section shall not
23 apply to requests for records made for a commercial purpose.
24 Such requests shall be subject to the provisions of Section 3.1
25 of this Act.

26 (Source: P.A. 96-542, eff. 1-1-10.)